

Part 7 Enforcement

67-4a-701 Examination of records.

- (1)
 - (a) The administrator may examine at reasonable times and upon reasonable notice, the records pertaining to abandoned or unclaimed property of any person, including the records of an agent of a business association or financial association, to determine whether the person has complied with the provisions of this chapter.
 - (b) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this chapter, and the unreported amount is more than \$12,500, the administrator:
 - (i) may assess the cost of the examination against the holder at the rate of up to \$200 a day for each examiner; and
 - (ii) may not charge more than \$5,000 or 10% of the value of the property found to be reportable and deliverable.
- (2) If a holder fails to maintain the records required by Part 6, Duties of All Holders, and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay whatever amounts can be reasonably estimated from any available records.
- (3) The administrator may require any person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.

Amended by Chapter 18, 2007 General Session

67-4a-702 Enforcement -- Limitation of actions.

- (1) The administrator, for and on behalf of the state of Utah, may begin an action in the district court of the county where the defendant resides or in the district court where the property is located to:
 - (a) obtain an order that certain property is unclaimed and payable or distributable to the administrator;
 - (b) compel presentation of a report or payment or distribution of property to the administrator;
 - (c) enforce the duty of a person to permit the examination or audit of the records of that person;
 - (d) enjoin any act that violates the provisions of this chapter; or
 - (e) enforce any aspect of this chapter in any manner.
- (2) The administrator may begin an action under this section when:
 - (a) the holder is a person domiciled in Utah or is a governmental entity of Utah;
 - (b) the holder is a person engaged in or transacting any business in Utah, although not domiciled in Utah; or
 - (c) the subject matter is tangible personal property held in Utah.
- (3) If a Utah court cannot obtain the personal jurisdiction necessary to pursue an action authorized by this section, the administrator may begin an action authorized by this section in a federal court or state court of another state having jurisdiction over that person.
- (4) The administrator is an indispensable party to any judicial or administrative proceedings concerning the disposition and handling of unclaimed property that is or may be payable or distributable into the protective custody of the administrator.

- (5) The administrator may intervene and participate in any judicial or administrative proceeding when to intervene will:
 - (a) be in the best interest of the state of Utah or the apparent owner of the unclaimed property; or
 - (b) conserve and safeguard the unclaimed property against dissipation, undue diminishment, or adverse discriminatory treatment.
- (6) The administrator may not begin an action or proceeding against any holder more than 10 years after the holder:
 - (a) specifically reported the property to the administrator; or
 - (b) gave notice of a dispute regarding the property to the administrator.

Enacted by Chapter 198, 1995 General Session

67-4a-703 Interest and penalties.

- (1) A person who fails to pay or deliver property within the time required by this chapter shall pay interest to the administrator at the rate of 12% per annum on the property or value of the property from the date the property should have been paid or delivered.
- (2)
 - (a) A person who willfully fails to file any report, or perform a duty required by this chapter, or to pay or deliver property to the administrator as required by this chapter shall pay a civil penalty equal to 20% of the value of the property that should have been paid or delivered.
 - (b) The administrator shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in imposing civil penalties under this section.
- (3)
 - (a) It is unlawful for any person to willfully refuse to pay or deliver property to the administrator after written demand by the administrator as required by this chapter.
 - (b) Any person who violates this Subsection (3) is guilty of a class B misdemeanor.
- (4) The administrator may, in appropriate circumstances:
 - (a) waive the payment of civil penalties;
 - (b) waive the payment of interest; or
 - (c) reduce the amount of the interest.

Amended by Chapter 382, 2008 General Session

67-4a-704 Judicial review.

Any person aggrieved by a decision of the administrator may obtain judicial review.

Enacted by Chapter 198, 1995 General Session

67-4a-705 Certain property recovery agreements unenforceable.

Each agreement to pay compensation to recover or assist in the recovery of property reported under Section 67-4a-301 that is made within 24 months after the date payment or delivery is made under Section 67-4a-302 is unenforceable.

Enacted by Chapter 198, 1995 General Session